



United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, New York 10007

November 28, 2023

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/29/2023

By ECF

The Honorable Barbara Moses
United States Magistrate Judge
Southern District of New York
500 Pearl St.
New York, NY 10007

MEMO ENDORSED

Re: *Acosta v. United States of America, et al.*, No. 23 Civ. 3551 (VSB)

Dear Judge Moses:

This Office represents the United States of America (the “United States”) in connection with the above-referenced action brought by plaintiff Ernesto Acosta (“Plaintiff”) pursuant to the Federal Tort Claims Act (“FTCA”), alleging negligence in connection with medical care and treatment provided to Tiennet Acosta in January 2020. I write on behalf of all parties to respectfully request an adjournment of the settlement conference currently scheduled before Your Honor on December 6, 2023, in light of the Court’s November 21, 2023, order granting an approximately two-month extension of the discovery schedule.

Judge Broderick referred this case for a settlement conference on August 16, 2023. (ECF No. 54.) Pursuant to a Case Management Plan and Scheduling Order (“CMP”) so-ordered that same day, fact discovery was set to conclude on December 31, 2023. (ECF No. 55.) On August 23, 2023, Your Honor scheduled a settlement conference for December 6, 2023, at 2:15 p.m. (ECF No. 58.) On September 19, 2023, the United States filed a Third-Party Complaint naming New York City Health and Hospitals Corporation (“NYCHHC”) and Deborah Conway (“Dr. Conway”) as third-party defendants. (ECF No. 64.) Dr. Conway answered the Third-Party Complaint on October 23, 2023 (ECF No. 72), and NYCHHC answered the Third-Party Complaint on November 9, 2023 (ECF No. 74).

Both NYCHHC and Dr. Conway were named as defendants in Plaintiff’s original complaint, but were not named as defendants in the Amended Complaint that Plaintiff filed on August 18, 2023. (*See* ECF No. 57.) As a result, they have not engaged in document or other discovery. Accordingly, the parties sought an extension of the discovery deadlines to provide time for the newly added parties to engage in discovery before party depositions. On November 21, 2023, the Court so-ordered an Amended CMP, under which fact discovery is to be completed by March 1, 2024. (ECF No. 78.)

In light of the Third-Party Complaint, which added two parties, and the extended discovery schedule, the parties respectfully request to adjourn the December 6, 2023, settlement conference to February 27, 28, or 29, 2024. Pursuant to paragraph 6 of the Order Scheduling Settlement Conference (ECF No. 58), the undersigned called chambers today and confirmed the Court’s

Page 2

availability on these dates. We believe the conference is more likely to be productive at that time, as the parties will have had an opportunity to make more progress on discovery.

We thank the Court for its consideration of this request.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ Mollie Kornreich
MOLLIE KORNREICH
MARY ELLEN BRENNAN
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-3274/2652
Email: mollie.kornreich@usdoj.gov
maryellen.brennan@usdoj.gov

CC: Counsel of record (by ECF)

Application **GRANTED**. The settlement conference scheduled for December 6, 2023 is **ADJOURNED** to **February 28, 2024** at **2:15 p.m.** All parties must submit their acknowledgment forms and confidential settlement letters to chambers by email, addressed to Moses_NYSDChambers@nysd.uscourts.gov, no later than **February 21, 2024**. (See Dkt. 58 ¶¶ 3-4.) **SO ORDERED**.



Barbara Moses
United States Magistrate Judge
November 29, 2023